

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE:	)	CHAPTER 11 PROCEEDING
	)	
PITTSFIELD DEVELOPMENT, LLC,	)	CASE NO. 17-09513
	)	
DEBTOR.	)	HON. JACQUELINE P. COX

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that on **Tuesday, October 4, 2022, at 1:00 p.m.**, I will appear before the Honorable Jacqueline P. Cox, or any judge sitting in Judge Cox's place, and present the **Motion of the United States Trustee to Dismiss or, in the Alternative, Convert Chapter 11 Case Pursuant to 11 U.S.C 1112(b)**, a copy of which is attached.

**This motion will be presented and heard electronically using Zoom for Government.** No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

**To appear by video**, (1) use this link: <https://www.zoomgov.com/>. (2) Enter the meeting ID 1612732896. (3) Enter the passcode 778135.

**To appear by telephone**, (1) call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. (2) Enter the meeting ID 1612732896. (3) Enter passcode 778135.

**When prompted identify yourself by stating your full name.**

**To reach Judge Cox's web page** go to [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov) and click on the tab for Judges.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may call the matter regardless.

/s/ Adam G. Brief  
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**CERTIFICATE OF SERVICE**

I, Adam G. Brief, Assistant U.S. Trustee, certify that on September 12, 2022, I caused to be served copies of the **Notice of Motion and Motion of the United States Trustee to Dismiss or, in the Alternative, Convert Chapter 11 Case Pursuant to 11 U.S.C 1112(b)** on the ECF Registrants shown below *via* the Court's Electronic Notice for Registrants and *via* First Class US Mail by BMC Group on all other entities shown at the addresses listed below. A supplement to this Certificate of Service from BMC Group will be filed.

/s/ Adam G. Brief

**SERVICE LIST**

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re:	)	Chapter 11
	)	
Pittsfield Development, LLC,	)	Case No. 17-09513
	)	
Debtors.	)	Hon. Jacqueline P. Cox

**U.S. TRUSTEE’S MOTION TO DISMISS OR, IN THE ALTERNATIVE,  
CONVERT CHAPTER 11 CASE PURSUANT TO 11 U.S.C. § 1112(b)**

NOW COMES PATRICK S. LAYNG, the United States Trustee for the Northern District of Illinois (the “U.S. Trustee”), by and through the Assistant U.S. Trustee, Adam G. Brief, hereby moves this Court for entry of an order dismissing or, in the alternative, converting the above-captioned Chapter 11 case. In support of his motion, the U.S. Trustee states to the Court as follows:

**JURISDICTION**

1. The Court has jurisdiction to hear and determine this motion pursuant to 28 U.S.C. § 157(b)(2)(A) and IOP 15(a) and Local Rule 40.3.1 of the United States District Court for the Northern District of Illinois.

2. Movant is the U.S. Trustee for the Northern District of Illinois and is charged with supervising the administration of bankruptcy cases under 28 U.S.C. § 586(a). The U.S. Trustee makes this request pursuant to 11 U.S.C. § 1112(b)(1).

**BACKGROUND**

3. Pittsfield Development, LLC (the “Debtor”) initiated this case on March 26, 2017 (the “Petition Date”) by filing a petition for relief under Chapter 11 of the Bankruptcy Code. *Dkt. 1*.

4. On March 20, 2018, the Debtor’s Chapter 11 Plan of Reorganization was confirmed. *Dkt. 228*.

5. Since plan confirmation, the Debtor has failed to file an post-confirmation quarterly reports or summaries from which its disbursements can be obtained. The Debtors' failure to comply with their filing requirements under the Bankruptcy Code and Federal Rules of Bankruptcy Procedure warrants conversion or dismissal of this case.

## LEGAL ARGUMENT

### **A. The Debtors have Failed to File Post-Confirmation Operating Reports or Summaries**

6. Section 1112(b)(1) of the Bankruptcy Code provides, in relevant part:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

7. Section 1112(b)(4)(F) states that "cause" to convert or dismiss a Chapter 11 debtor includes the "unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter."

8. It is well established that a debtor's failure to submit monthly operating reports is "cause" to convert or dismiss a case. *In re Rey*, 2006 WL 2457435, \*8 (Bankr. N.D. Ill. Aug. 21, 2006). "Monthly operating reports are much more than busy work imposed upon a Chapter 11 debtor for no reason other than to require it to do something." *In re Berryhill*, 127 B.R. 427, 433 (Bankr. N.D. Ind. 1991). Monthly operating reports "are the life blood of chapter 11 . . . enabling creditors to keep tabs on the debtor's post-petition operations." *Id.* A debtor's failure to file monthly operating reports – and file them timely – is "a serious breach of the debtor's fiduciary obligations and undermines the Chapter 11 process." *In re Rey*, at \*8.

9. These same concepts apply equally to a debtor's obligation to file quarterly post-confirmation reports or summaries. *See, e.g., In re Patel*, 621 B.R. 245, 248 (Bankr. E.D. Cal.

2020) (stating that post-confirmation, “United States trustee quarterly reports were also required while the case was open.”).

10. Rule 2015(a)(5) of the Federal Rules of Bankruptcy Procedure requires the filing of a quarterly statement detailing the disbursements made by a post-confirmation Chapter 11 debtor. Fed. R. Bankr. P. 2015(a)(5); *see also* 28 C.F.R. §§ 58.8(f), (g).

11. The Debtor’s Plan was confirmed in March 2018. As of that time, the Debtor has failed to file any post-confirmation reports or summaries detailing its disbursements. Without that information, the appropriate amount of quarterly fees required to be paid pursuant to 28 U.S.C. § 1930 cannot be determined.

12. The United States Trustee’s office contacted Debtor’s counsel about the delinquency on numerous occasions between September 2021 and September 2022. However, the Debtor has failed to cure the deficiency.

13. The Debtors’ failure to file post-confirmation operating reports or summaries constitutes cause to convert or dismiss this case.

### **CONCLUSION**

14. The U.S. Trustee believes that dismissal would be in the best interest of creditors in this case.

15. Therefore, as a result of the foregoing, the U.S. Trustee requests that this case be dismissed for cause shown. In the alternative, the U.S. Trustee requests that this case be converted to Chapter 7 for cause shown.



**WHEREFORE**, the U.S. Trustee respectfully asks this Court for an order dismissing or, in the alternative, converting this Chapter 11 case to one under Chapter 7, and for such other relief as this Court deems just.

RESPECTFULLY SUBMITTED:

PATRICK S. LAYNG  
UNITED STATES TRUSTEE

DATED: September 12, 2022

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